

RECEIVED
CENTRAL FAX CENTER

SEP 21 2006

REMARKS

In a Final Office Action mailed on June 21, 2006, claims 1-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peyer in view of Doyle.

A *prima facie* case of obviousness has not been established for any of claims 1-31 for at least the reason that the Examiner still fails to show where the prior art contains the alleged suggestion or motivation to modify Peyer's user interface so that the interface displays a multimedia presentation. Such a modification is directly opposed to Peyer's disclosure, in that Peyer teaches establishing separate browser instances for user control and viewing multimedia content. Peyer, 6:34-35. Thus, Peyer itself is evidence that a suggestion or motivation does not exist in the prior art for Peyer's modification as proposed in the Final Office Action.

The specific language from Doyle now cited by the Examiner merely recites that a computer may view of large amounts of data over the Internet. Applicant fails to see how this provides the requisite suggestion or motivation for Peyer's modification.

The Examiner speculates that the modification of Peyer's browser is a "design choice" but provides no objective evidence, which would support Peyer's modification to derive the claimed invention.

Obviousness is evaluated based on objective evidence. *In re Lee*, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). Although the Examiner refers to *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988), contrary to the Examiner's position, in *In re Fine* the Federal Circuit held that the Examiner had failed to establish a *prima facie* case of obviousness because of the Examiner's bald assertion that a substitution "would have been within the skill of the art," without offering any support for or explanation of this conclusion. *In re Fine*, 5 USPQ2d at 1599. The Federal Circuit agreed with the appellant that a *prima facie* case of obviousness had not been established and stated, "one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *Id.*, 1600. See also, *W.L. Gore & Associates, Inc v. Garlock, Inc.*, 220 USPQ 303, 312-13 (Fed. Cir. 1983) (stating, "to imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against his teacher"); *Al-Site Corp. v. VSI Int'l, Inc.*, 50 USPQ2d 1161, 1171 (Fed. Cir. 1999) (stating, "rarely, however, will the skill in the art component operate to supply missing

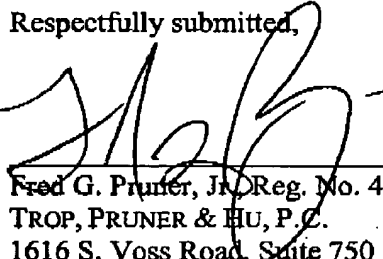
knowledge or prior art to reach an obviousness judgment"). Therefore, Applicant maintains that the § 103 rejections of claims 1-31 are improper and respectfully requests withdrawal of these rejections.

CONCLUSION

In view of the foregoing, a favorable action in the form of a Notice of Allowance are requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (ITL.0215US).

Respectfully submitted,

Date: September 21, 2006


Fred G. Pruner, Jr. Reg. No. 40,779
TROP, PRUNER & HU, P.C.
1616 S. Voss Road, Suite 750
Houston, Texas 77057
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]

Attorney for Intel Corporation